



General Assembly

February Session, 2006

***Raised Bill No. 5490***

LCO No. 2008

\*02008\_\_\_\_\_PRI\*

Referred to Committee on Program Review and Investigations

Introduced by:  
(PRI)

***AN ACT IMPLEMENTING RECOMMENDATIONS OF THE  
LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS  
COMMITTEE CONCERNING BINDING ARBITRATION FOR SCHOOL  
EMPLOYEES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 10-153f of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2006*):

3 (a) (1) There shall be in the Department of Education an arbitration  
4 panel of not less than twenty-four or more than twenty-nine persons to  
5 serve as members of first arbitration panels or as single arbitrators as  
6 provided in subsection (c) of this section. The Governor shall appoint  
7 such panel, with the advice and consent of the General Assembly, as  
8 follows: [(1)] (A) Seven members shall be representative of the interests  
9 of local and regional boards of education and shall be selected from  
10 lists of names submitted by such boards; [(2)] (B) seven members shall  
11 be representative of the interests of exclusive bargaining  
12 representatives of certified employees and shall be selected from lists  
13 of names submitted by such bargaining representatives; and [(3)] (C)  
14 not less than ten or more than fifteen members shall be impartial

15 representatives of the interests of the public in general and shall be  
 16 residents of the state of Connecticut, experienced in public sector  
 17 collective bargaining interest impasse resolution and selected from lists  
 18 of names submitted by the State Board of Education. The lists of names  
 19 submitted to the Governor pursuant to [subdivisions (1) to (3)]  
 20 subparagraphs (A) to (C), inclusive, of this [subsection] subdivision  
 21 shall, in addition to complying with the provisions of section 4-9b, as  
 22 amended, include a report from the State Board of Education certifying  
 23 that the process conducted for soliciting applicants made adequate  
 24 outreach to minority communities and documenting that the number  
 25 and make-up of minority applicants considered reflect the state's racial  
 26 and ethnic diversity. Each member of the panel shall serve a term of  
 27 two years, provided each arbitrator shall hold office until a successor is  
 28 appointed and, provided further, any arbitrator not reappointed shall  
 29 finish to conclusion any arbitration for which such arbitrator has been  
 30 selected or appointed. Arbitrators may be removed for good cause. If  
 31 any vacancy occurs in such panel, the Governor shall, [act within forty  
 32 days to fill such] not later than forty days after the occurrence of any  
 33 such vacancy, fill the vacancy in the manner provided in section 4-19.  
 34 Persons appointed to the arbitration panel shall serve without  
 35 compensation but each shall receive a per diem fee for any day during  
 36 which such person is engaged in the arbitration of a dispute pursuant  
 37 to this section. The parties to the dispute so arbitrated shall pay the fee  
 38 in accordance with subsection (c) of this section, as amended by this  
 39 act.

40 (2) The Department of Education shall maintain a panel of neutral  
 41 arbitrators, appointed by the Commissioner of Education, from which  
 42 the commissioner shall select review panels or single arbitrators. Such  
 43 panel of neutral arbitrators shall consist of not less than nine impartial  
 44 persons, representing the interests of the public in general, to review  
 45 any award, other than a stipulated award in accordance with  
 46 subparagraph (A) of subdivision (4) of subsection (c) of this section  
 47 that is rejected by the legislative body of a local school district, or in the  
 48 case of a regional school district, the legislative bodies of the

49 participating towns, and shall be selected in accordance with  
50 subdivision (7) of subsection (c) of this section. The members of the  
51 panel shall serve for a term of two years, or until a successor is  
52 appointed. Arbitrators may be removed for good cause.

53 (b) If any local or regional board of education cannot agree with the  
54 exclusive representatives of a teachers' or administrators' unit after  
55 negotiation concerning the terms and conditions of employment  
56 applicable to the employees in such unit, either party may submit the  
57 issues to the commissioner for mediation. On the one hundred sixtieth  
58 day prior to the budget submission date, the commissioner shall order  
59 the parties to report their settlement. If, on such one hundred sixtieth  
60 day, the parties have not reached agreement and have failed to initiate  
61 mediation, the commissioner shall order the parties to notify the  
62 commissioner of the name of a mutually selected mediator and to  
63 commence mediation. The commissioner may order the parties to  
64 appear before said commissioner during the mediation period. In  
65 either case, the parties shall meet with a mediator mutually selected by  
66 them, provided such parties shall inform the commissioner of the  
67 name of such mediator, or with the commissioner or the  
68 commissioner's agents or a mediator designated by said commissioner.  
69 Mediators shall be chosen from a panel of mediators selected by the  
70 State Board of Education or from outside such panel if mutually  
71 agreed by the parties. Such mediators shall receive a per diem fee  
72 determined on the basis of the prevailing rate for such services, and  
73 the parties shall share equally in the cost of such mediation. In any  
74 civil or criminal case, any proceeding preliminary thereto, or in any  
75 legislative or administrative proceeding, a mediator shall not disclose  
76 any confidential communication made to such mediator in the course  
77 of mediation unless the party making such communication waives  
78 such privilege. The parties shall provide such information as the  
79 commissioner may require. The commissioner may recommend a basis  
80 for settlement but such recommendations shall not be binding upon  
81 the parties. Such recommendation shall be made [within] not later than  
82 twenty-five days after the day on which mediation begins.

83 (c) (1) On the fourth day next following the end of the mediation  
84 session or on the one hundred thirty-fifth day prior to the budget  
85 submission date, whichever is sooner, the commissioner shall order the  
86 parties to report their settlement of the dispute or, if there is no  
87 settlement, to notify the commissioner of either their agreement to  
88 submit their dispute to a single arbitrator or the name of the arbitrator  
89 selected by each of them. [Within] Not later than five days [of] after  
90 providing such notice, the parties shall notify the commissioner of the  
91 name of the arbitrator if there is an agreement on a single arbitrator  
92 appointed to the panel pursuant to subparagraph (C) of subdivision  
93 [(3)] (1) of subsection (a) of this section, as amended, or agreement on  
94 the third arbitrator appointed to the panel pursuant to said  
95 subdivision. The commissioner may order the parties to appear before  
96 said commissioner during the arbitration period. If the parties have  
97 notified the commissioner of their agreement to submit their dispute to  
98 a single arbitrator and they have not agreed on such arbitrator,  
99 [within] not later than five days after such notification, the  
100 commissioner shall select such single arbitrator who shall be an  
101 impartial representative of the interests of the public in general. If each  
102 party has notified the commissioner of the name of the arbitrator it has  
103 selected and the parties have not agreed on the third arbitrator,  
104 [within] not later than five days after such notification, the  
105 commissioner shall select a third arbitrator, who shall be an impartial  
106 representative of the interests of the public in general. If either party  
107 fails to notify the commissioner of the name of an arbitrator, the  
108 commissioner shall select an arbitrator to serve and the commissioner  
109 shall also select a third arbitrator who shall be an impartial  
110 representative of the interests of the public in general. Any selection  
111 pursuant to this section by the commissioner of an impartial arbitrator  
112 shall be made at random from among the members appointed under  
113 [subdivision (3)] subparagraph (C) of subdivision (1) of subsection (a)  
114 of this section. Arbitrators shall be selected from the panel appointed  
115 pursuant to subdivision (1) of subsection (a) of this section and shall  
116 receive a per diem fee determined on the basis of the prevailing rate

117 for such services. Whenever a panel of three arbitrators is selected, the  
118 chairperson of such panel shall be the impartial representative of the  
119 interests of the public in general.

120 (2) The chairperson of the arbitration panel or the single arbitrator  
121 shall set the date, time and place for a hearing to be held in the school  
122 district [between the fifth and twelfth day, inclusive,] not later than  
123 twelve days after such chairperson or such single arbitrator is selected.  
124 At least five days prior to such hearing, a written notice of the date,  
125 time and place of the hearing shall be sent to the board of education  
126 and the representative organization which are parties to the dispute,  
127 and, if a three-member arbitration panel is selected or designated, to  
128 the other members of such panel. Such written notice shall also be sent,  
129 by registered mail, return receipt requested, to the fiscal authority  
130 having budgetary responsibility or charged with making  
131 appropriations for the school district, and a representative designated  
132 by such body may be heard at the hearing as part of the presentation  
133 and participation of the board of education. At the hearing each party  
134 shall have full opportunity to submit all relevant evidence, to  
135 introduce relevant documents and written material and to argue on  
136 behalf of its positions. At the hearing a representative of the fiscal  
137 authority having budgetary responsibility or charged with making  
138 appropriations for the school district shall be heard regarding the  
139 financial capability of the school district, unless such opportunity to be  
140 heard is waived by the fiscal authority. The nonappearance of the  
141 representative shall constitute a waiver of the opportunity to be heard  
142 unless there is a showing that proper notice was not given to the fiscal  
143 authority. The chairperson of the arbitration panel or the single  
144 arbitrator shall preside over such hearing.

145 (3) The hearing may, at the discretion of the arbitration panel or the  
146 single arbitrator, be continued but in any event shall be concluded  
147 [within] not later than twenty-five days after its commencement.

148 (4) [After] (A) (i) Not later than five days after hearing all the issues,

149 the parties may reach a stipulation on all the issues. (ii) Not later than  
150 five days after such award is stipulated to, the arbitrators or the single  
151 arbitrator shall file one copy of the decision with the commissioner,  
152 each town clerk in the school district involved and the board of  
153 education and organization which are parties to the dispute. (iii) The  
154 stipulated award may be rejected by the legislative body of the local  
155 school district or, in the case of a regional school district, by the  
156 legislative bodies of the participating towns. Such rejection shall be by  
157 a two-thirds majority vote of the members of such legislative body or,  
158 in the case of a regional school district, the legislative body of each  
159 participating town, present at a regular or special meeting called and  
160 convened for such purpose not later than twenty days after the receipt  
161 of the award. If the legislative body or bodies do not meet for such  
162 purpose during such twenty day period after the receipt of the award,  
163 the award is deemed accepted by the body or bodies. (iv) If the  
164 legislative body or legislative bodies, as appropriate, reject any such  
165 award, they shall notify, not later than five days after the vote to reject,  
166 the commissioner and the exclusive representative for the teachers' or  
167 administrators' unit of such vote and submit to them a written  
168 explanation of the reasons for the vote. (v) Not later than five days  
169 after such notification of rejection of the award, the parties shall notify  
170 the commissioner of either their agreement to submit their dispute to a  
171 single arbitrator or the name of the arbitrator selected by each of them.  
172 Not later than five days after providing such notice, the parties shall  
173 notify the commissioner of the name of the arbitrator if there is an  
174 agreement on a single arbitrator appointed to the panel pursuant to  
175 subparagraph (C) of subdivision (1) of subsection (a) of this section or  
176 agreement on the third arbitrator appointed to the panel pursuant to  
177 said subdivision (1). The commissioner may order the parties to appear  
178 before said commissioner during the arbitration period. If the parties  
179 have notified the commissioner of their agreement to submit their  
180 dispute to a single arbitrator and they have not agreed on such  
181 arbitrator, not later than five days after such notification, the  
182 commissioner shall select such single arbitrator who shall be an

183 impartial representative of the interests of the public in general. If each  
184 party has notified the commissioner of the name of the arbitrator it has  
185 selected and the parties have not agreed on the third arbitrator, not  
186 later than five days after such notification, the commissioner shall  
187 select a third arbitrator, who shall be an impartial representative of the  
188 interests of the public in general. If either party fails to notify the  
189 commissioner of the name of an arbitrator, the commissioner shall  
190 select an arbitrator to serve and the commissioner shall also select a  
191 third arbitrator who shall be an impartial representative of the interests  
192 of the public in general. Any selection pursuant to this section by the  
193 commissioner of an impartial arbitrator shall be made at random from  
194 among the members appointed under subparagraph (C) of subdivision  
195 (1) of subsection (a) of this section. Arbitrators shall be selected from  
196 the panel appointed pursuant to subdivision (1) of subsection (a) of  
197 this section and shall receive a per diem fee determined on the basis of  
198 the prevailing rate for such services. Whenever a panel of three  
199 arbitrators is selected, the chairperson of such panel shall be the  
200 impartial representative of the interests of the public in general. (vi)  
201 The arbitrators or arbitrator shall notice and conduct the hearing in  
202 accordance with subdivision (2) of this subsection. (vii) The hearing  
203 may, at the discretion of the arbitration panel or the single arbitrator,  
204 be continued but in any event shall be concluded not later than twenty  
205 days after its commencement. The arbitrators or arbitrator shall issue  
206 an award in accordance with the provisions of subparagraph (B) of this  
207 subdivision and subdivisions (5) and (6) of this subsection. Such award  
208 shall not be subject to further review by the legislative body of the  
209 local school district, or in the case of a regional school district, the  
210 legislative body of each participating town.

211 (B) If the parties do not reach a stipulation on all the issues in  
212 accordance with subparagraph (A)(i) of this subdivision, not later than  
213 twenty days after hearing all the issues, the arbitrators or the single  
214 arbitrator shall [ , within twenty days,] render a decision in writing,  
215 signed by a majority of the arbitrators or the single arbitrator, which  
216 states in detail the nature of the decision and the disposition of the

217 issues by the arbitrators or the single arbitrator. The written decision  
218 shall include a narrative explaining the evaluation by the arbitrators or  
219 the single arbitrator of the evidence presented for each item upon  
220 which a decision was rendered by the arbitrators or the single  
221 arbitrator and shall state with particularity the basis for the decision as  
222 to each disputed issue and the manner in which the factors  
223 enumerated in this subdivision were considered in arriving at such  
224 decision, including, where applicable, the specific similar groups and  
225 conditions of employment presented for comparison and accepted by  
226 the arbitrators or the single arbitrator and the reason for such  
227 acceptance. The arbitrators or the single arbitrator shall file one copy of  
228 the decision with the commissioner, each town clerk in the school  
229 district involved and the board of education and organization which  
230 are parties to the dispute. The decision of the arbitrators or the single  
231 arbitrator shall be final and binding upon the parties to the dispute  
232 unless a rejection is filed in accordance with subdivision (7) of this  
233 subsection. The decision of the arbitrators or the single arbitrator shall  
234 incorporate those items of agreement the parties have reached prior to  
235 its issuance. At any time prior to the issuance of a decision by the  
236 arbitrators or the single arbitrator, the parties may jointly file with the  
237 arbitrators or the single arbitrator, any stipulations setting forth  
238 contract provisions which both parties agree to accept. In arriving at a  
239 decision, the arbitrators or the single arbitrator shall give priority to  
240 the public interest and the financial capability of the town or towns in  
241 the school district, including consideration of other demands on the  
242 financial capability of the town or towns in the school district. In  
243 assessing the financial capability of the town or towns, there shall be  
244 an irrebuttable presumption that a budget reserve of five per cent or  
245 less is not available for payment of the cost of any item subject to  
246 arbitration under this chapter. The arbitrators or the single arbitrator  
247 shall further consider, in light of such financial capability, the  
248 following factors: [(A)] (i) The negotiations between the parties prior to  
249 arbitration, including the offers and the range of discussion of the  
250 issues; [(B)] (ii) the interests and welfare of the employee group; [(C)]



251 (iii) changes in the cost of living averaged over the preceding three  
252 years; [(D)] (iv) the existing conditions of employment of the employee  
253 group and those of similar groups; and [(E)] (v) the salaries, fringe  
254 benefits, and other conditions of employment prevailing in the state  
255 labor market, including the terms of recent contract settlements or  
256 awards in collective bargaining for other municipal employee  
257 organizations and developments in private sector wages and benefits.  
258 The parties shall submit to the arbitrators or the single arbitrator their  
259 respective positions on each individual issue in dispute between them  
260 in the form of a last best offer. The arbitrators or the single arbitrator  
261 shall resolve separately each individual disputed issue by accepting  
262 the last best offer thereon of either of the parties, and shall incorporate  
263 in a decision each such accepted individual last best offer and an  
264 explanation of how the total cost of all offers accepted was considered.  
265 Whenever the last best offers of the parties contain identical agreement  
266 provisions on any of the unresolved issues, the panel or single  
267 arbitrator shall consider such issues resolved and shall incorporate  
268 such provisions into the arbitration decision. The award of the  
269 arbitrators or the single arbitrator shall not be subject to rejection by  
270 referendum. The parties shall each pay the fee of the arbitrator selected  
271 by or for them and share equally the fee of the third arbitrator or the  
272 single arbitrator and all other costs incidental to the arbitration.

273 (5) The commissioner shall assist the arbitration panel or the single  
274 arbitrator as may be required in the course of arbitration pursuant to  
275 this section.

276 (6) If the day for filing any document required pursuant to this  
277 section falls on Saturday, Sunday or a holiday, the time for such filing  
278 shall be extended to the next business day thereafter.

279 (7) The award of the arbitrators or single arbitrator may be rejected  
280 by the legislative body of the local school district or, in the case of a  
281 regional school district, by the legislative bodies of the participating  
282 towns. Such rejection shall be by a two-thirds majority vote of the

283 members of such legislative body or, in the case of a regional school  
284 district, the legislative body of each participating town, present at a  
285 regular or special meeting called and convened for such purpose  
286 [within] not later than twenty-five days [of] after the receipt of the  
287 award. If the legislative body or legislative bodies, as appropriate,  
288 reject any such award, they shall notify, [within] not later than ten  
289 days after the vote to reject, the commissioner and the exclusive  
290 representative for the teachers' or administrators' unit of such vote and  
291 submit to them a written explanation of the reasons for the vote.  
292 [Within] Not later than ten days after receipt of such notice, the  
293 exclusive representative of the teachers' or administrators' unit shall  
294 prepare, and the board of education may prepare, a written response  
295 to such rejection and shall submit it to such legislative body or  
296 legislative bodies, as appropriate, and the commissioner. [Within] Not  
297 later than ten days after the commissioner has been notified of the vote  
298 to reject, (A) the commissioner shall select a review panel of three  
299 arbitrators or, if the parties agree, a single arbitrator, from the panel of  
300 arbitrators appointed pursuant to subdivision (2) of subsection (a) of  
301 this section, who are residents of Connecticut and labor relations  
302 arbitrators approved by the American Arbitration Association and not  
303 members of the panel who issued the rejected award, and (B) such  
304 arbitrators or single arbitrator shall review the decision on each  
305 rejected issue. The review conducted pursuant to this subdivision shall  
306 be limited to the record and briefs of the hearing pursuant to  
307 subdivision (2) of this subsection, the written explanation of the  
308 reasons for the vote and a written response by either party. In  
309 conducting such review, the arbitrators or single arbitrator shall be  
310 limited to consideration of the criteria set forth in subparagraph (B) of  
311 subdivision (4) of this subsection. Such review shall be completed  
312 [within] not later than twenty days [of] after the appointment of the  
313 arbitrators or single arbitrator. The arbitrators or single arbitrator shall  
314 accept the last best offer of either of the parties. [Within] Not later than  
315 five days after the completion of such review, the arbitrators or single  
316 arbitrator shall render a final and binding award with respect to each

317 rejected issue. The decision of the arbitrators or single arbitrator shall  
318 be in writing and shall include the specific reasons and standards used  
319 by each arbitrator in making his decision on each issue. The decision  
320 shall be filed with the parties. The reasonable costs of the arbitrators or  
321 single arbitrator and the cost of the transcript shall be paid by the  
322 legislative body or legislative bodies, as appropriate. Where the  
323 legislative body of the school district is the town meeting, the board of  
324 selectmen shall have all of the authority and responsibilities required  
325 of and granted to the legislative body under this subdivision.

326 (8) The decision of the arbitrators or a single arbitrator shall be  
327 subject to judicial review upon the filing by a party to the arbitration,  
328 [within] not later than thirty days following receipt of a final decision  
329 pursuant to subdivision (4) or (7) of this subsection, as appropriate, of  
330 a motion to vacate or modify such decision in the superior court for the  
331 judicial district wherein the school district involved is located. The  
332 superior court, after hearing, may vacate or modify the decision if  
333 substantial rights of a party have been prejudiced because such  
334 decision is: (A) In violation of constitutional or statutory provisions;  
335 (B) in excess of the statutory authority of the panel; (C) made upon  
336 unlawful procedure; (D) affected by other error of law; (E) clearly  
337 erroneous in view of the reliable, probative and substantial evidence  
338 on the whole record; or (F) arbitrary or capricious or characterized by  
339 abuse of discretion or clearly unwarranted exercise of discretion. In  
340 any action brought pursuant to this subdivision to vacate or modify  
341 the decision of the arbitrators or single arbitrator, reasonable attorney's  
342 fees, costs and legal interest on salary withheld as the result of an  
343 appeal of said decision may be awarded in accordance with the  
344 following: Where the board of education moves to vacate or modify  
345 the decision and the decision is not vacated or modified, the court may  
346 award to the organization which is the exclusive representative  
347 reasonable attorney's fees, costs and legal interest on salary withheld  
348 as the result of an appeal; or, where the organization which is the  
349 exclusive representative moves to vacate or modify the decision and  
350 the decision is not vacated or modified, the court may award to the

351 board of education reasonable attorney's fees, costs and legal interest  
352 on salary withheld as the result of an appeal.

353 (d) The commissioner and the arbitrators or single arbitrator shall  
354 have the same powers and duties as the board under section 31-108 for  
355 the purposes of mediation or arbitration pursuant to this section, and  
356 subsection (c) of section 10-153d, and all provisions in section 31-108  
357 with respect to procedure, jurisdiction of the Superior Court, witnesses  
358 and penalties shall apply.

359 (e) The local or regional board of education and the organization  
360 designated or elected as the exclusive representative for the  
361 appropriate unit, through designated officials or their representatives,  
362 which are parties to a collective bargaining agreement, and which, for  
363 the purpose of negotiating with respect to salaries, hours and other  
364 conditions of employment, mutually agree to negotiate during the  
365 term of the agreement or are ordered to negotiate said agreement by a  
366 body of competent jurisdiction, shall notify the commissioner of the  
367 date upon which negotiations commenced [within] not later than five  
368 days after said commencement. If the parties are unable to reach  
369 settlement twenty-five days after the date of the commencement of  
370 negotiations, the parties shall notify the commissioner of the name of a  
371 mutually selected mediator and shall conduct mediation pursuant to  
372 the provisions of subsection (b) of this section, notwithstanding the  
373 mediation time schedule of subsection (b) of this section. On the fourth  
374 day next following the end of the mediation session or on the fiftieth  
375 day following the date of the commencement of negotiations,  
376 whichever is sooner, if no settlement is reached the parties shall  
377 commence arbitration pursuant to the provisions of subsections (a), (c)  
378 and (d) of this section, notwithstanding the reference to the budget  
379 submission date.

380 (f) The State Board of Education shall adopt regulations pursuant to  
381 chapter 54 concerning the method by which names of persons who are  
382 impartial representatives of the interests of the public in general are

383 placed on lists submitted by the State Board of Education to the  
 384 Governor for appointment to the arbitration panel established  
 385 pursuant to subsection (a) of this section. Such regulations shall  
 386 include, but not be limited to, (1) a description of the composition of  
 387 the group which screens persons applying to be such impartial  
 388 representatives, which group shall include representatives of local  
 389 legislative and fiscal authorities and local and regional boards of  
 390 education and exclusive bargaining representatives of certified  
 391 employees, (2) application requirements and procedures, and (3) the  
 392 selection criteria and process, including an evaluation of an applicant's  
 393 experience in arbitration. Such regulations shall provide for a training  
 394 program for applicants who lack experience in arbitration but who are  
 395 otherwise qualified and shall describe the criteria for participation in  
 396 the training program.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2006	10-153f

***Statement of Purpose:***

To revise statutes relating to binding arbitration for school employees in accordance with the recommendations of the program review and investigations committee.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*